



The Commonwealth of Massachusetts
Office of the Commissioner of Banks
One South Station
Boston, Massachusetts 02110

ARGEO PAUL CELLUCCI
GOVERNOR

JANE SWIFT
LIEUTENANT GOVERNOR

THOMAS J. CURRY
COMMISSIONER

July 27, 1999

Mr. Ronald A. Grant
President & CEO
Randolph Savings Bank
10 Cabot Place
Stoughton, MA 02072

Dear Mr. Grant:

This letter is in response to your correspondence of June 24, 1999 to the Division of Banks (the "Division") relative to a proposal on behalf of Randolph Savings Bank (the "Bank") to offer alternative investment products, including mutual funds and annuities, to its customers. Certain specifics of the proposal were also discussed with a member of the Division's staff.

According to your letter, the Bank intends to contract with a third party broker-dealer to offer its customers alternative investment products including fixed and variable annuities. The Bank and its third party broker-dealer will not be selling traditional life insurance, property & casualty insurance or any other type of insurance product. The purpose of your letter was to obtain approval from the Division to engage in such activities pursuant to Chapter 129 of the Acts of 1998 and the Division's implementing regulation at 209 CMR 49.00 *et seq.* Your letter included a copy of the Bank's Retail Nondeposit Investment Sales Policy.

Since the enactment of Chapter 129 of the Acts of 1998, the Division, along with the Division of Insurance, has been in the process of reviewing various issues presented for interpretive rulings. One interpretive letter, issued on a joint basis by both Divisions, contains information addressing the matters raised in your letter. A copy of that letter numbered 98-250 is enclosed for your review. See Question #2. The Division's position in this letter is consistent with the positions set forth in letter 98-250.

A state-chartered bank in the Commonwealth may engage in the sale of annuities and other nondeposit investment products.¹ Certain types of annuities may be considered insurance products for insurance licensing purposes and require the Bank to obtain a license from the DOI to enter into a third party agreement which includes the sharing of commissions. Section 10 of the Act provides that "[N]othing in this act shall be construed so as to prohibit a bank from selling annuity products pursuant to state or federal law." It is the Division's position that a plan of operation pursuant to Chapter 129 would not be required to engage in the sale of annuities, however, the sale of annuities by the Bank would be subject to compliance with applicable federal guidelines governing retail sales of nondeposit investment

¹ See, e.g., Mass. Gen. L. ch. 167F, §2, para. 25 and *Nationsbank v. Valic*, 115 S. Ct. 810 (1995).




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products.² As you know, these guidelines, similar to Chapter 129, require specific consumer disclosures concerning the nature of the investment products; require separate physical locations for on-premises sales and require that sales are made by specifically designated and trained personnel.³ Questions related to the applicable insurance licensing requirements should be addressed directly with the Division of Insurance.

The conclusions reached in this letter are based solely on the facts presented. Fact patterns which vary from that presented may result in a different position statement by the Division.

Sincerely,)


Joseph A. Leonard, Jr.
Deputy Commissioner of Banks
and General Counsel

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² The Interagency Statement on Retail Sales of Nondeposit Investment Products (Fed. Banking L. Rep. (CCH) Pars. 70-001-70-119, February 15, 1994) contains guidelines for the sale of nondeposit investment products, which include annuities.

³ See *id.*